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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,269	01/20/2004	Kang Soo Seo	1740-000079/US	6870

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HARNESSE, DICKEY & PIERCE, P.L.C.  
P.O. BOX 8910  
RESTON, VA 20195

EXAMINER
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NGUYEN, HUY THANH

ART UNIT	PAPER NUMBER
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2621

MAIL DATE	DELIVERY MODE
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12/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/759,269	<b>Applicant(s)</b> SEO ET AL.	
	<b>Examiner</b> HUY T. NGUYEN	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 11-17 direct to non- functional information and a medium. Since the information have not been encoded or recorded on the medium and information that not processed by a recited computer to perform certain function, the information themselves do not make them the statutory. See MPEP 2100. How the information interact to any means or circuit to control accessing the applications are not found in the claims.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitamura et al (5758007) in view of Yamaguchi et al (6631241).

Regarding claims 1, 11, 18, 24, 27 and 30, Kitamura discloses a recording/reproducing apparatus (Figs 12, 17, 18, 24) for recording the sub-picture objects on a computer readable medium comprising

receiving means for receiving sub-picture data including a plurality of a sub-picture graphic objects; and

organizing means for organizing the plurality of sub-picture objects and color control information into a packet and recording the PES packet on the recording medium, wherein the color control information is used in common for screen display by the plurality of sub-picture data objects (Figs. 3-4, column 37, lines 25-51).

Kitamura fails to teach that the sub picture data is graphic data. Yamaguchi teaches a recording / reproducing having generating means for using the sub-picture data as graphic data (column 37, lines 40-50).

It would have been obvious to one of ordinary skill in the art to modify Kitamura with the teaching of Yamaguchi by using a generating means as taught by Yamaguchi with the apparatus of Kitamura for using the sub-picture data as graphic data thereby enhancing the capacity of the apparatus of Kitamura.

Regarding claims 2,12,19,25,28 and 31, Kitamura as modified with Yamaguchi further teaches the method of claim 1, wherein the plurality of graphic objects are an object set that is to be displayed on a single video page ( on a screen).

Regarding claims 13,20,26,29 and 32, Kitamura as modified with Yamaguchi fails to specifically teach using a global transparency array for the graphic data. However, it is noted that using transparency for sub-picture or graphic data is well known in the art. Therefore official notice is taken and it would have been obvious to one of ordinary skill in the art to modify Kitamura as modified with Yamaguchi by using a global transparency array with the apparatus of Kitamura for defining the grade for the graphic objects thereby improving the color of the graphic objects.

Regarding claims 6, 14 and 21, Kitamura as modified with Yamaguchi further teaches using DTS and PTS in the packet of graphic data (Yamaguchi (Fig. 10, column 12, lines 25-35).

Regarding claims 7 and 15, Kitamura further teaches inserting display effect information for at least one graphic object while organizing the PES packet (column 35).

Regarding claims 8 and 9, Kitamura further teaches the display effect information includes time information of display start and end of any of the graphic objects (Figs. 4, 32, 33, column 36, lines 51-65).

Regarding claims 10, 17 and 23, Kitamura as modified with Yamaguchi further teaches using ID objects, an ID of actual image data, and actual image data. (Yamaguchi, Figs. 7, 10, columns 11).

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Regarding claims 4 and 5 and further for claims 27 and 30, Kitamura as modified with Yamaguchi fails to specifically teach converting the video, audio and graphic data into transport packets. However, it is noted that converting video, audio and sub-picture into transport packet is well known in the art. Therefore official notice is taken and it would have been obvious to one of ordinary skill in the art to modify Kitamura as modified with Yamaguchi with official notice by using a converting to convert the video, audio and sub-picture data into transport packet as an alternative format for recording.

### ***Response to Arguments***

4. Applicant's arguments filed 8/28/2008 have been fully considered but they are not persuasive.

. Applicant argues that Kitamura as modified with Yamaguchi does not teach using common color for a plurality of graphic objects . In response the examiner disagrees. It is noted that the combination of Kitamura and Yamaguchi teaches using common color for plurality of objects since both Kitamura and Yamaguchi teaches that the sub picture data and graphic data are corresponding for each object (sub picture for each scene change or video object) and Kitamura teaches using color generated by color control information generated by the same system for sub picture of each object.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571)272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Q. Tran can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUY T NGUYEN/

Primary Examiner, Art Unit 2621